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14 UNITED STATES DISTRICT COURT

15 NORTHERN DISTRICT OF CALIFORNIA

16 SAN FRANCISCO DIVISION

17 WAYMO LLC,

18 Plaintiff,

v.

19 UBER TECHNOLOGIES, INC.;
20 OTTOMOTTO LLC; OTTO TRUCKING
21 LLC,

22 Defendants.

23 CASE NO. 3:17-cv-00939-WHA

24 **PLAINTIFF WAYMO'S OPPOSITION TO
25 DEFENDANTS' MOTION FOR
26 SUMMARY JUDGMENT OF NON-
27 INFRINGEMENT**

28 **Hearing:**

Date: June 8, 2017

Time: 8:00 a.m.

Place: 8, 19th Floor

Judge: The Honorable William H. Alsup

1 On May 2, Defendants Uber Technologies, Inc., Ottomotto LLC, and Otto Trucking LLC
 2 (collectively “Defendants”) moved for summary judgment of non-infringement with respect to a
 3 subset of the patents-in-suit (U.S. Patent Nos. 8,836,922, 9,285,464 and 9,086,273) and with
 4 respect to two specific devices: Spider and Fuji (the “Motion”). Dkt. 330-4 at 5-7. On May 12,
 5 Defendants withdrew their Motion as to Spider, which Defendants do not dispute uses a common
 6 lens to transmit and receive light. Dkt. 430 at 2. According to discovery to date, the remaining
 7 device at issue in the Motion, the Fuji, does not use a common lens to transmit and receive light.
 8 Accordingly, although Waymo has not yet served its infringement contentions in this case, *see*
 9 Dkt. 283 (proposing May 23 deadline for infringement contentions), on May 15 Waymo explained
 10 to Defendants that Waymo will not be asserting patent claims from the ’922, ’464 or ’273 patent
 11 against the Fuji. Jaffe Declaration Ex. A (“Ex. A”) at 2. In other words, Waymo will not be
 12 accusing Fuji on this record of infringing the single lens patents.

13 Waymo informed Defendants of this and asked them to withdraw what remains of the
 14 summary judgment motion so as to avoid using any further Court resources on the one lingering
 15 aspect of the Motion. Uber demurred, responding: “Waymo is welcome to file its response to
 16 Uber’s pending motion for summary judgment tomorrow, informing the court that Waymo no
 17 longer intends to pursue patent infringement claims against Fuji. Upon such filing, Uber is willing
 18 to withdraw its pending motion for summary judgment.” Ex. A at 1.

19 For the subset of patents identified in Uber’s partial summary judgment motion, Waymo
 20 will not be pursuing patent infringement claims of the ’922, ’464 and ’273 patents against Fuji
 21 based on current discovery. Waymo thus expects Defendants to timely withdraw their Motion.

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1 To the extent Defendants do not do so or do not do so in a timely fashion, Waymo respectfully
2 requests that the Court deny Defendants' Motion as moot for the reasons described above.

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4 DATED: May 16, 2017

QUINN EMANUEL URQUHART & SULLIVAN,
LLP

5 By /s/Charles K. Verhoeven
6 Charles K. Verhoeven
7 Attorneys for WAYMO LLC

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